

§ 222.23

and where railroads did not sound the horn, as of December 18, 2003.

(d) Trains, locomotive consists and individual locomotives that have stopped in close proximity to a public highway-rail grade crossing may approach the crossing and sound the locomotive horn for less than 15 seconds before the locomotive enters the highway-rail grade crossing, if the locomotive engineer is able to determine that the public highway-rail grade crossing is not obstructed and either:

(1) The public highway-rail grade crossing is equipped with automatic flashing lights and gates and the gates are fully lowered; or

(2) There are no conflicting highway movements approaching the public highway-rail grade crossing.

(e) Where State law requires the sounding of a locomotive audible warning device other than the locomotive horn at public highway-rail grade crossings, that locomotive audible warning device shall be sounded in accordance with paragraphs (b) and (d) of this section.

§ 222.23 How does this regulation affect sounding of a horn during an emergency or other situations?

(a)(1) Notwithstanding any other provision of this part, a locomotive engineer may sound the locomotive horn to provide a warning to animals, vehicle operators, pedestrians, trespassers or crews on other trains in an emergency situation if, in the locomotive engineer's sole judgment, such action is appropriate in order to prevent imminent injury, death, or property damage.

(2) Notwithstanding any other provision of this part, including provisions addressing the establishment of a quiet zone, limits on the length of time in which a horn may be sounded, or installation of wayside horns within quiet zones, this part does not preclude the sounding of locomotive horns in emergency situations, nor does it impose a legal duty to sound the locomotive horn in such situations.

(b) Nothing in this part restricts the use of the locomotive horn in the following situations:

(1) When a wayside horn is malfunctioning;

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(2) When active grade crossing warning devices have malfunctioned and use of the horn is required by one of the following sections of this chapter: §§ 234.105, 234.106, or 234.107;

(3) When grade crossing warning systems are temporarily out of service during inspection, maintenance, or testing of the system; or

(4) When SSMs, modified SSMs or engineering SSMs no longer comply with the requirements set forth in appendix A of this part or the conditions contained within the Associate Administrator's decision to approve the quiet zone in accordance with section 222.39(b) of this part.

(c) Nothing in this part restricts the use of the locomotive horn for purposes other than highway-rail crossing safety (e.g., to announce the approach of a train to roadway workers in accordance with a program adopted under part 214 of this chapter, or where required for other purposes under railroad operating rules).

§ 222.25 How does this rule affect private highway-rail grade crossings?

This rule does not require the routine sounding of locomotive horns at private highway-rail grade crossings. However, where State law requires the sounding of a locomotive horn at private highway-rail grade crossings, the locomotive horn shall be sounded in accordance with § 222.21 of this part. Where State law requires the sounding of a locomotive audible warning device other than the locomotive horn at private highway-rail grade crossings, that locomotive audible warning device shall be sounded in accordance with §§ 222.21(b) and (d) of this part.

(a) Private highway-rail grade crossings located within the boundaries of a quiet zone must be included in the quiet zone.

(b)(1) Private highway-rail grade crossings that are located in New Quiet Zones or New Partial Quiet Zones and allow access to the public, or which provide access to active industrial or commercial sites, must be evaluated by a diagnostic team and equipped or treated in accordance with the recommendations of such diagnostic team.

(2) The public authority shall provide the State agency responsible for grade